

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In re:

Chapter 11

6 GAWKER MEDIA LLC, et al., Case No. 16-11700 (SMB)
7 Debtors.

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8
9 July 12, 2018

10 10:14 a.m.

11
12 SALES AUCTION PROCEEDINGS,
13 held at the offices of Ropes & Gray LLP,
14 1211 Avenue Of The Americas, New York, New
15 York, New York, before Abner D. Berzon, a
16 Registered Professional Reporter,
17 Certified Realtime Reporter and Notary
18 Public of the State of New York.
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A P P E A R A N C E S :

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(Appearances continued on following
page.)

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A P P E A R A N C E S (Continued):

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DEBORAH SCHWARTZ,

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(Appearances continued on following page.)

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A P P E A R A N C E S (Continued):

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* * *

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MR. GALARDI: On the record.

It's Greg Galardi on behalf of the Plan Administrator, Will Holden, who is two seats to my left.

Today is the time and place for the commencement of an Auction with respect to what has been defined as the Gawker Assets.

Just to get some formalities out of the way, I will ask the court reporter to mark a series of documents just so that it's in the auction transcript, and the auction transcript will be submitted to the court in support of the sale process and that arms-length transaction has occurred.

The documents that I will submit to the court reporter, hopefully in the order in which they will be submitted is, first, there is an Order Docket No. 1141 that was filed on June 21st, '18, which is the Order Authorizing and Approving the Bidding Procedures, Breakup Fee and Expense

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Reimbursement, Approving Notice
Procedures, Scheduling a Sale Hearing,
and Approving Procedures for the
Assignment of Certain Contracts. That
order approved Didit as the stalking
horse bidder with various bid
protections of an expense
reimbursement and a breakup fee, and
that will be Exhibit 1.

(Exhibit 1, Order Docket No.
1141 filed on June 21, 2018, marked
for identification, this date.)

MR. GALARDI: Exhibit 2 will be
the actual Bid Procedures that we will
comply with today, obviously subject
to modifications if we need to make
modifications, but those Bid
Procedures are also part of Docket
1141, but it's dash 1, filed on the
same date, June 21, 2018. That will
be Exhibit 2.

(Exhibit 2, Bidding Procedures,
Docket No. 1141-1, filed on June
21, 2018, marked for identification,

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this date.)

MR. GALARDI: Exhibit 3 is
Docket No. 1143 filed on 6/22/18,
which was the Notice of Assignment of
Executory Contracts in Connection with
the Gawker Sale of Assets. That will
be Exhibit 3.

(Exhibit 3, Notice of Assignment
of Executory Contracts in Connection
with the Gawker Sale of Assets, Docket
No. 1143 filed on 6/22/18, marked for
identification, this date.)

MR. GALARDI: My understanding
is that all bidders are assuming the
same contracts and taking on the same
contracts, so we shouldn't have any
issues with respect to that. Should
that change, I'd ask the bidders to
advise me otherwise.

The fourth document will be
Docket No. 1146, which is the Notice
of Solicitation of Bids to Purchase
Substantially all of the Gawker Assets
Auction and Sale Procedures that was

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approved pursuant to the Bid Procedures Order mentioned earlier, but it is the actual notice by which we solicited and scheduled today for today's auction.

(Exhibit 4, Notice of Solicitation of Bids to Purchase Substantially all of the Gawker Assets Auction and Sale Procedures, Docket No. 1146, marked for identification, this date.)

MR. GALARDI: In addition, people should have and seen -- it was one on the docket Docket No. 1135-3, which was Exhibit Z, but is now going to be Exhibit 5, I believe I'm up to, which was the Stalking Horse APA submitted by Didit Holdings. It had a purchase price of \$1,131,60, and that is the document on which we've solicited higher or otherwise better bids.

(Exhibit 5, Stalking Horse APA submitted by Didit Holdings, Docket

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No. 1135-3, marked for identification,
this date.)

MR. GALARDI: For the record, we
did in fact, and there was a bid
deadline established in that document,
and in the solicitation procedures,
that required bids -- I believe it was
by this Monday -- to be submitted by
the deadline. Within the deadline, we
did receive a bid from BDG/GMGI
Acquisition, Inc. That bid was in the
proper amount of an Overbid and was in
the purchase price of \$1.3 million.

During the course of the period
of time between then and last evening,
we had negotiations with them to try
to revise their document, because I
wanted to make the two Asset Purchase
Agreements look exactly the same.

That was with respect to, as my
recollection -- and it may not be all
of the details -- one was to make sure
that the purchase price was not that
they took on the liability to pay the

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Stalking Horse if they are the higher bidder, but, rather, we get the cash and pass it through. The second one was to make sure that the archive agreement was acceptable to them as it was with the Stalking Horse Bidder.

They have complied with that. We filed -- we gave to the bidders, as we were required to by notice last night, we gave to each of the Qualified Bidders a copy of the document, as well as a copy of the redline to the Stalking Horse Agreement.

Then, I would also note that, as of yesterday morning, we received a bid, and this was after the bid deadline, and we'll talk about this very shortly, but -- and then we'll get the role of Mr. Bollea's counsel in all of this -- but we did receive interest inclination and then ultimately an Asset Purchase Agreement and a deposit.

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Let me backtrack. With respect to BDG -- or the acquisition of Bustle is what we will call them going forward -- from Bustle we received not only the Asset Purchase Agreement, but 20 percent deposit, as required by the Solicitation Procedures. The Didit bid had a 10 percent deposit as was required at the time of the Stalking Horse deal.

In addition, yesterday we received a bid after the bid deadline set forth in the Solicitation Procedures for Online Logo Maker, LLC, to submit a bid. During the course of the day, we got them to mark up the Asset Purchase Agreement and also post a 20 percent deposit on their purchase price. That document, again, was circulated to bidders last night, along with their blackline, and after discussing with the Plan Administrator modification of the Procedure Orders to allow them to be a Qualified Bid

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and then also to discuss with Mr. Bollea -- which I'll give some background about -- whether or not we should qualify that bid despite it was filed after or given to us after the bid deadline, the parties with the economic stake in this transaction agreed to extend the bid deadline and let Online Logo Maker, because of the 20 percent deposit and a substantially same agreement, participate in today's auction.

Some background that people may or may not be aware of. One is, we have a settlement agreement with Mr. Bollea, as a result of many things that had gone on during the course of the case. As a result of that settlement agreement, and pursuant to the terms of the agreement, we are required to consult with Mr. Bollea or his counsel regarding the course of the conduct of this auction procedures modifications and no material

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modification of those procedures could be made without Mr. Bollea's consent. They are consultation rights. They are not veto rights, consent right or otherwise, but we have tried to get agreement between the parties. That is why we consulted with him regarding the bid deadline, as he is -- as counsel has represented, he has a 45 percent stake, 45 percent stake in the proceeds of the transaction.

In addition, the Plan Administrator has kept what I will call the former equity holder, but now the 55 percent stakeholders, apprised of the auction process. I should say for the record Mr. Holden, who is the Plan Administrator, does not need their consent, does not need to consult with them by technical terms, but has consulted with them. I would also note for the record that some of them do not want the auction to sell the assets, believing that a higher

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and better value may be obtained if we took this asset off of the market. That is not to say we intend to do so. We hope to have a very good auction.

The Plan Administrator is here to proceed, I believe Mr. Bollea is here to proceed, and both Mr. Bollea and the Plan Administrator believe that a sale at this time is in the highest and best interest of the estates.

With that, what I would like to do is, first turning to Didit, I would like, for the sake of the court reporter and for Didit, to advise who is the representative here and who will be speaking and bidding today on behalf of Didit.

MR. LEE: Kevin Lee, Executive Chairman of Didit.

MR. GALARDI: Okay. With respect to Bustle, I would ask them to identify who is the representative that will be speaking here today on

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behalf of Bustle. That does not preclude other people from speaking, but it just makes it easier for when we have bids to turn to a certain person.

MR. GOLDBERG: Me, Bryan Goldberg.

MR. GALARDI: And finally, with respect to Online Logo Maker, LLC, who is present for Online Logo Maker and will be bidding on behalf of Online Logo Maker.

MR. PAPADEAS: George Papadeas.

MR. GALARDI: George, can you spell your last name, please.

MR. PAPADEAS: P-a-p-a-, d-, as in David, e-a-, s, as in Sam.

MR. GALARDI: Okay. Thank you.

Now, before commencing with the auction, I would like to note a few things of importance. One, is pursuant to the Stalking Horse bid, the Stalking Horse did not agree to serve as a Back-up Bidder with respect

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to if it comes in second in this
auction.

With respect to the Bid
Procedures, it was a requirement that,
in order to put in a Qualified Bid --
and we understand this, there's not a
specific provision in the agreement --
that both Bustle and Online Logo have
agreed that, if they are the second
place bidder, they will stand behind
the Successful Bid.

So the first thing is I will
turn to Bryan Goldberg to confirm that
they are prepared to stand behind, if
they are not the Successful Bidder,
but if they are the second bidder,
they are prepared to be approved as a
second bidder and to close in the
event that the first bidder does not
close. Obviously, on a reasonable
time-frame.

MR. GOLDBERG: Yeah. This is
Bryan Goldberg and I was just going to
follow up on the time-frame there.

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MR. GALARDI: I think it will be within seven days.

MR. GOLDBERG: Okay. Then it's agreed.

MR. GALARDI: With respect -- and I'll make it the condition, that it's seven days.

With respect to -- and I may have to clarify that because I want to get the date by which they have to close, and so it would be only seven days longer than any closing set forth in each of your agreements, which I think is probably 14 days or something like that.

Is that fine with you.

MR. GOLDBERG: 14 days is fine.

MR. GALARDI: With respect to Online, George Papadeas --

MR. PAPADEAS: Correct.

MR. GALARDI: -- would you confirm that you would stand behind it if you are the second place bidder?

MR. PAPADEAS: George Papadeas,

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I confirm.

MR. GALARDI: Now, with that confirmation, what we will do is, just to put people on a level playing field, for Didit to understand for future bidding, we are going to give that a \$25,000, or essentially one bid increment, value for standing behind. So whether I call it a deduction from your bid when you go to make your next bid, or otherwise, think of it as \$25,000, crass, we're going to put it right into cash. Okay?

MR. LEE: Uh-hum.

MR. GALARDI: Now, the second aspect of this that I want to note is different in the deals are the follow: As I mentioned at the outset, Didit had a 10 percent deposit and both Bustle and Online have 20 percent deposits. What we would expect at the conclusion, and ask persons to confirm, that, whatever the highest and best bid is of the first and

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second bidder, we would ask those bidders to, within one business day of the conclusion of the auction and our pronouncement that it's highest and best, to deposit the 20 percent of whatever the final purchase price is, and that will be one of the conditions that we will ask for at the end of this auction, but I wanted to know now if there were any objections to that from any of the bidders to move the deposit up to 20 percent for all bidders in the event that they are the highest and Successful Bid or they are the Back-up Bidder.

Any issue from Didit?

MR. LEE: No.

MR. GALARDI: Any issue from Bustle?

MR. GOLDBERG: No.

MR. GALARDI: And any issue from Online?

MR. PAPADEAS: No.

MR. GALARDI: Thank you.

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With all of those clarifications on the record, and based upon our review of the documents, and as consistent with what we sent out as the, quote, "baseline bid", we will declare at this stage the highest and best bid the bid by Bustle. Basic reasons: Though the document is essentially -- and there are no real economic issues -- in light of the fact that Online Logo came in later, and we actually know less about them, we are going to say that they are the second place bid at this particular point in time and the bid of Bustle at \$1.3 million is the highest and best to commence the actual live auction.

What we will propose to do is to move through the auction in the following order:

Since BD-- since Bustle is highest bid, Online is what we'll call a close second, and Didit is now third, we would proceed with bid

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increments starting with Didit and then turn to Online and then back to Bustle. That would be the order. We will play the two-pass rule. You can pass once. If you pass twice, you're deemed out for the rest of the auction; there's no coming back in, there's no knock. Okay? You will get one pass. Okay?

MR. LEE: One clarification: In our conversations about the Bidding Procedures, it was my counsel's interpretation that there wasn't going to be a two-pass rule; that we essentially have the right to match whatever the final bid was.

MR. GALARDI: We'll go back to the agreement. I thought we got rid of the match right, but that's --

MR. LEE: That's possible. You know, it's gone through a lot of red lines.

MR. GALARDI: We did get rid of the match rights. So that's why we're

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back to a two-pass rule.

MR. LEE: Yes. Alright. Thank you.

MR. GALARDI: The other aspect -- and I want to be absolutely clear on the record, because this is the thing that Judge Bernstein -- and you can read this -- will ask me again and again and again -- okay? -- everyone should understand -- we are looking at net value to the estate. In that analysis, and why you had to place the Overbids you placed, was if Didit is not the highest and best bid, we will have to deduct from your purchase price to assess the value to the estate a \$150,000. That will become relevant the next bid that Didit makes. I will be as clear as I can possibly be on the record. If people want to ask how we value it, we should understand how we value it. If Didit wants to waive that benefit, it can do so and we can all play on a level

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playing field, but that's something that Didit can do with respect to its bid, but, right now, when I calculate -- so, for example, when I calculate the Bustle bid at \$1.3 million, I'm really looking at net value to the estate of 1.150 value to the estate.

So when I ask Didit to Overbid, that's the next number that they're going to have to go up 25 on net value to the estate. So whether you call it a crooked ladder or otherwise, I just want everybody to have that understanding so we have no issue trying understand that at the end of the auction.

So, with that, what I will do is ask if there are any questions about the procedures for the auction, ask if there are any issues that people want to discuss, and what I will take is if there are no questions and if anybody makes a bid, they agree to the

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procedures that I have outlined in
this long dialogue with myself, and
then proceed to bidding.

MS. SCHWARTZ: I have one
question. Will there be a place for
us to confer?

MR. GALARDI: There is a place,
actually for you, a room right over
here. You can break out at any time.
Look, sometimes people -- and this
auction I think is going to go quickly
and smoothly. There are many auction
where you spend the next three hours
negotiating the agreement. The
agreements are all clean right now, in
our view, they're all substantially
the same, so, break out at any time to
decide strategy, bids, next bids,
whatever you want to do, and now is
sometimes the time to bid, but, given
that we have Didit here and the bid is
to them, I would ask Didit whether you
would like to take time to consult
with yourself, Kevin, or whether you

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would like to have -- sometimes I have
to do that -- and/or whether you would
like to make an Overbid.

The bid to you would be, as
mentioned, 1.15 million, plus I have
deducted you 25 for the not Back-up
Bidder. So if you want to confirm
you're the Back-up Bidder, then you
would have to go to 1.175, if I do the
calculation correctly.

MR. LEE: Can you reclarify
the -- oh, the deduction. Yeah, I got
it. I had to process that.

MR. GALARDI: So if you
basically say, "I'll agree to be the
Back-up Bidder, that's 25 now I don't
have to worry about anymore.

MR. LEE: Right.

MR. GALARDI: Once you do that,
then we're back to we're just a clear
25,000 Overbid, which a 25,000 Overbid
on net value to the estate, by my
calculation, would be 1.175.

MR. LEE: Okay.

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MR. GALARDI: Okay. What can I -- so the bid is to you. What would you like to do?

MR. LEE: I'm going to pass.

MR. GALARDI: Okay. Now, going to Online, since your bid is 1.3, all you would need to do is bid 1.325 to be a successful Overbid.

MR. LEE: Online?

MR. PAPADEAS: I'll bid.

MR. GALARDI: So you'll confirm, George, that the bid is 1.325 from Online Logo?

MR. PAPADEAS: Correct.

MR. GALARDI: So now I turn to Bustle, and for them to Overbid that bid, they would have to be 1.350. And you're more than free to consult, stop, whatever you'd like to do.

MR. GOLDBERG: We bid.

MR. GALARDI: So I confirm that Bustle has now bid 1.350.

Turning now to Didit, since we added 50, got to add 75.

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2 A. So now it's 1.225, I think it
3 is, but let me just...

4 So I got to subtract 150. Yeah,
5 I'm right. 1 point -- you'd have to bid 1
6 point -- \$1,250,000.

7 MR. LEE: We'll pass.

8 MR. GALARDI: So Stalking Horse
9 is now out. Bid goes back to Online.
10 George, bid to you would be
11 1.375.

12 MR. PAPADEAS: May I consult?

13 MR. GALARDI: You may consult.

14 MR. PAPADEAS: How much time do
15 I have?

16 MR. GALARDI: Take what you
17 need.

18 MR. PAPADEAS: Reasonable.

19 MR. GALARDI: Reasonable amount
20 of time. At this point, moving so
21 quickly, I'm not worried about it.

22 We're off the record.

23 (Time noted: 10:35 a.m.)

24 (Brief recess.)

25 (Time noted: 10:42 a.m.)

1 PROCEEDINGS

2 MR. PAPADEAS: Just to
3 confirm --

4 MR. GALARDI: The bid to you
5 currently, to be an Overbid, you would
6 have to bid 1.375.

7 MR. PAPADEAS: Okay. So right
8 now, the highest bid is 1.35, the
9 second highest bid is 1.325, just to
10 confirm; correct?

11 MR. GALARDI: Correct. And you
12 would be that Back-up Bidder.

13 MR. PAPADEAS: We'll pass.

14 MR. GALARDI: That's one pass.
15 Now we go to you. I think,
16 strategically, you'll pass, but I
17 would never want to Overbid yourself.

18 MR. GOLDBERG: Correct.

19 MR. GALARDI: I got it.

20 Okay. It's back to you. Are
21 you done?

22 MR. PAPADEAS: We'll pass again.

23 MR. GALARDI: Then we're done.
24 Here's what I want to do as a result
25 of that: So we pronounce the auction

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is now concluded. I will mark as the highest and best offer submitted at this auction the bid by BDG/GMGI Acquisition. The change to the Asset Purchase Agreement that is simply required by them is to simply increase their number to 1.350, and to post a deposit -- I can even do 20 percent of that, I believe -- to 2 point -- \$270,000, which is probably \$14,000 more than what you had.

MS. SCHWARTZ: Right.

MR. GALARDI: Will, do we really care about going through the brain damage of doing that?

MR. HOLDEN: That's fine.

MR. GALARDI: Given that, let's not go through the brain damage of increasing that deposit.

MS. SCHWARTZ: Okay.

MR. GALARDI: That will be -- and I'll mark as this exhibit --

MS. KODIS: 6.

MR. GALARDI: -- 6, the Asset

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Purchase Agreement, noting that the only change to this agreement noted by Bustle, that the purchase price is now 1.350. Then I will mark and put into the transcript the bid by Online Logo Maker. That bid was at \$1.325 million. We will mark that as Exhibit 7, noting again, that the only change to that document from the one submitted and circulated last night is that they will -- I think the best thing is to just have people cross out the number, put the new number in, initial it, before you leave the room today, and note that that's the only other change.

(Exhibit 6, Asset Purchase Agreement, marked for identification, this date.)

(Exhibit 7, bid by Online Logo Maker, marked for identification, this date.)

MR. GALARDI: We will proceed at the Sale Hearing to get affirmation

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and approval by court of both the bid and the -- and the second bidder in case. What we will do -- and now I'm going to defer to David. David, what is the closing time period after the Sale Hearing that is in these documents? Do you as the bidders know what day you have to close by? Is it within 15 days or within 20 days.

MR. STURM: I think it was 20, but we --

MR. GALARDI: Let me ask the question: What days is our sale hearing.

MS. KODIS: 17th.

MR. GALARDI: 17th. Assuming the court affirms and enters an order approving that, you have the 14-day stay period, unless you want to close early. So 14 days from the 17th gives me July 31st, so let's call it August 1st or 2nd.

What I would like to do is the following: Have the winning bidder

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agree that they will close no later than August 2nd, unless you have an issue with that. And then the Back-up Bidder stay open till the 9th, absent that closing. That's consistent with the seven days.

Does that work for the now the highest and best bid?

MS. SCHWARTZ: It does.

MR. GALARDI: Does that work for Online?

MR. PAPADEAS: It does.

MR. GALARDI: Okay. So we -- that will be part of the Asset Purchase Agreements. We'll make a note on that.

And obviously if you want to close earlier, that's fine, all power to you, we'll happily close without a final order. That's -- I don't think anybody's going to stay this thing, so...

Dan, anything from your perspective? Is this all good for

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Mr. Bollea and satisfied your
consultation rights.

MR. TABAK: This is all good for
Mr. Bollea. His consultation rights
have been satisfied.

MR. GALARDI: Anybody have any
questions.

MR. GOLDBERG: Just -- just a
quick question. What is on the public
record and when does that transpire?

MR. GALARDI: So -- good
question. There is -- we have not
filed the Asset Purchase Agreements on
the public record, other than the
Stalking Horse Agreement. What would
be my normal procedure at this point
would be to file a copy of the Asset
Purchase Agreement with the new number
in it, designating it as the
Successful Bid, a copy of the Online
agreement with the same thing, with
the two changes we made, the dates and
the numbers on the record, saying that
we will be seeking approval of that as

1 PROCEEDINGS

2 the Back-up Bidder.

3 The documents that have never
4 been on the public record -- and, by
5 the way, the transcript becomes a
6 public record.

7 MR. GOLDBERG: Immediately?

8 MR. GALARDI: It will be a
9 public record. We will submit it in
10 as evidence of the --

11 MR. GOLDBERG: You have a time
12 line on that?

13 MR. GALARDI: Again, we like to
14 do -- given that the hearing is the
15 17th and today is the 12th, ideally
16 all of this would go on the record
17 tomorrow.

18 MR. GOLDBERG: So we should
19 anticipate that the press, etcetera,
20 will know about this by tomorrow.

21 MR. GALARDI: Correct, unless we
22 go and wait till Monday. And,
23 frankly, the press is going to call us
24 all day today and probably call you
25 guys all day, although we haven't

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given the names out. So we can work
with you, but --

MR. HOLDEN: Right.

MR. GALARDI: -- but the ideal
process is for me to file Notice of
Completion of Auction, Successful Bid,
Back-up Bidder, APAs, so the court has
those today. We have an agenda
deadline of probably Monday, anyway.
So we'll have to have it on no later
than Monday.

MR. GOLDBERG: Got it.

MR. GALARDI: And then the only
other documents that have not seen the
light of day were filed, and I will
defer to you, is we've not filed the
schedules with the agreement. I don't
have a confidentiality issue with
those, but, if you do, we cannot file
them or file them. The only people I
know that have seen them are the
bidders and Mr. Thiel and Mr. Bollea.

MR. GOLDBERG: And there's legal
reason that -- are we not to talk to

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the press? Is that at our discretion?

MR. GALARDI: You can talk to
the press.

MR. HOLDEN: You're still under
confidentiality. So what I'd like to
do is I'd like to coordinate after
this how -- who and how and all that
works.

MR. GOLDBERG: Sure.

MR. HOLDEN: And we can do that
as soon as we walk out of here.

MR. GALARDI: But, again, you're
under confidentiality, but that you
are the bidder and this is your
document, it's fine. I don't think we
have any other restrictions other than
giving out certain information.

MR. GOLDBERG: Yeah, I'd just
like to be clear. We can talk
afterwards.

MR. HOLDEN: Understood.

MR. GALARDI: Understood. So
what I would do then is why don't we
conclude the auction, do the quick

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mark-up of the two documents.

If you also want to discuss the press, then maybe the three of you guys, and whoever else has to be here, go discuss, coordinate the statements with respect to the press, and then that is it.

Any questions/concerns about the conduct of the auction?

I appreciate -- Kevin, I appreciate your efforts and waiting and patience and all of that over this process and serving as the Stalking Horse. I very much appreciate it and your counsel's efforts.

Thank you. That concludes it.

(Time noted: 10:51 a.m.)

C E R T I F I C A T I O N

I, ABNER D. BERZON, a
Registered Professional Reporter and
Certified Realtime Reporter, do hereby
certify that the foregoing is a true
and accurate transcription of my
stenographic notes

I further certify that I am not
employed by nor related to any party
to this action.



ABNER D. BERZON, RPR, CRR
Notary Public, State of New York
No. 01BE6303311
Qualified in New York County
Commission Expires 5/12/22

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